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In re Application of
BLANCHARD et al.
Application No.: 09/806,473
PCT No.: PCT/IB99/01625
Int. Filing Date: 01 October 1999
Priority Date: 07 October 1998
Attorney's Docket No.: 205738US0PCT
For: NOVEL RHEOLOGY REGULATORS SUCH AS
GROUND NATURAL CALCIUM CARBONATES
OPTIONALLY TREATED WITH A FATTY ACID OR
SALT AND THEIR USE

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.42

This is a decision on applicant's renewed petition under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 27 February 2002. Applicant's request for one month extension of time under 37 CFR 1.136(a) is granted.

BACKGROUND

On 01 October 1999, applicants filed international application PCT/IB99/01625, which claimed priority of an earlier French application filed 07 October 1998. On 04 May 2000, a Demand for international preliminary examination was filed. Accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 07 April 2001.

On 09 April 2001, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*: the basic national fee and an English translation of the international application. In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants also filed a declaration that was signed by applicant/inventors Pierre Blanchard, Detlef Gysau, Patrick Trouve and by Marion Loman-Oonk, as legal representative for deceased co-inventor, Henny Loman. The submission was treated as a request for status under 37 CFR 1.42.

On 27 November 2001, a decision was mailed to applicant indicating that the declaration, although signed by the legal representative of the deceased inventor, failed to provide the legal representative's country of citizenship, residency and mailing address.

On 27 February 2002, applicant filed a declaration of Marian Loman-Oonk, Legal Representative of deceased co-inventor Henny Loman, providing Ms. Oonk's country of citizenship, residency and mailing address.

DISCUSSION

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the capacity or relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and provide the citizenship, residency and mailing address of the heir(s)/legal representative.

Upon review of the declaration submitted on 01 August 2001, the declaration does not state the country of citizenship, former residency and mailing address of the deceased inventor; it identifies Marion Loman-Oonk, as legal representative for deceased co-inventor and gives her citizenship, residency and mailing address. What is required for compliance with 37 CFR 1.497 is a declaration which identifies each inventor and the country of citizenship, residency and mailing address of each inventor. The declaration must also indicate the country of citizenship, residency and mailing address of the legal representative and be executed by the legal representative on behalf of the deceased inventor, indicating her capacity as legal representative.

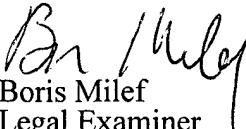
Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.42 must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.42." No additional petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.


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